

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**Sable Networks, Inc. and
Sable IP, LLC,**

Plaintiffs,

v.

Cloudflare, Inc.,

Defendant.

**Civil Action No.
6:21-cv-00261-ADA**

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to the Court’s Scheduling Order (Dkt. 41), the Parties submit this Joint Claim Construction Statement. The claim terms identified below as agreed upon or being in dispute are found in U.S. Patent Nos. 6,954,431 (the “431 patent”) (Dkt. 29-2); 6,977,932 (the “932 patent”) (Dkt. 29-3); 7,012,919 (the “919 patent”) (Dkt. 29-4); and 8,243,593 (the “593 patent”) (Dkt. 29-5).

I. AGREED CONSTRUCTIONS

Claim Term	Patent and Claims	Agreed Construction
“behavioral statistics”	8,243,593 (1-7, 9, 11, 12, 25, 27-29, 39)	“statistics reflecting the empirical behavior of the flow”
“flow block”	6,977,932 (1-3, 6, 9, 10, 16-20, 24-26, 28, 29, 32) 8,243,593 (1-3, 6, 7)	Plain and ordinary meaning
“flow”	8,243,593 (1-5, 7, 9, 11, 12, 25-29, 39)	Plain and ordinary meaning

“guaranteed rate traffic”	6,954,431 (12, 23)	“network traffic that has a guaranteed transmission rate”
“means for maintaining a set of behavioral statistics for the flow, wherein the set of behavioral statistics is updated based on each information packet belonging to the flow, as each information packet belonging to the flow is processed, regardless of the presence or absence of congestion”	8,243,593 (25, 29)	Governed by pre-AIA 35 U.S.C. § 112, ¶ 6 Function: maintaining a set of behavioral statistics for the flow, wherein the set of behavioral statistics is updated based on each information packet belonging to the flow, as each information packet belonging to the flow is processed, regardless of the presence or absence of congestion Structure: router 102, flow block 402, statistics block 302, line card 202, misbehaving flow manager 210. See cols. 5:44-48, 6:9-24, 7:18-36, 7:38-45, 8:8-21, 8:41-56, 9:35-38, 9:49-51, and associated Figures
“microflow / micro-flow”	6,954,431 (1-29) 6,977,932 (1-32) 7,012,919 (1-29)	Plain and ordinary meaning
“flow state information”	6,977,932 (1-29)	Plain and ordinary meaning
“packet discard time”	6,954,431 (8, 17, 19-22, 24)	Plain and ordinary meaning
“tunnel identifier”	6,977,932 (1, 17, 32)	“identifier that identifies a network tunnel”
Preamble of ‘431 Patent Claim 19	6,954,431 (19)	Limiting
Preambles of ‘932 Patent Claims 9 and 24	6,977,932 (9, 24)	The term “[a] router” from each of these preambles is limiting

II. LIST OF DISPUTED TERMS

	Claim Term	Patent and Claims	Sable's Proposed Construction	Cloudflare's Proposed Construction
1.	"based on a characteristic" [Cloudflare Term]	6,954,431 (1, 10)	Plain and ordinary meaning	"based on a characteristic associated with the microflow"
2.	"means for determining a capacity of a buffer containing a microflow based on a characteristic" [Cloudflare Term]	6,954,431 (10)	Function: determining a capacity of a buffer containing a microflow based on a characteristic. Structure: ingress micro-flow manager 505 (including the micro-flow recognizer 520 and micro-flow classifier 530), memory 550 (including the storage block table 560 and flow block table 570), linecard 410, and equivalents thereof. <i>See</i> cols. 13:11-14:46, and associated Figures.	Indefinite
3.	"weighting factor" [Sable Term]	6,954,431 (16, 19, 21-22, 25, 26)	"the portion of an available rate a micro-flow is able to be delegated as compared to other micro-flows"	"factor indicating the portion of available rate bandwidth to be delegated to the micro-flow compared to other micro-flows"
4.	"a delay variation substructure configured to provide a buffer value to dampen jitter in a transmission of the microflow" [Cloudflare Term]	6,954,431 (19)	Not governed by pre-AIA 35 U.S.C. § 112, ¶ 6; Plain and ordinary meaning	Governed by pre-AIA 35 U.S.C. § 112, ¶ 6; Indefinite

5.	“the predetermined value for the microflow timeout period substructure comprises is less than 32 seconds” [Cloudflare Term]	6,954,431 (29)	Plain and ordinary meaning	Indefinite
6.	“aggregate flow block” [Cloudflare Term]	6,977,932 (1, 6, 9-13, 17, 21, 24-29, 32)	Plain and ordinary meaning Alternatively (per Sur-reply): “a data structure that contains tunnel specific information for the selected network tunnel”	(per Reply) “a data structure that contains tunnel protocol-specific information for the selected network tunnel for an aggregate flow”
7.	“aggregate flow” [Cloudflare Term]	7,012,919 (25, 26)	Plain and ordinary meaning Alternatively (per Sur-reply): “a plurality of individual data flows”	(per Reply) “a plurality of individual, but related, data flows”
8.	“label switched path(s)” [Sable Term]	7,012,919 (26, 27)	“a predetermined path for the transport of one or more traffic flows or packets”	“an MPLS Layer 2 Label Switched Path (LSP) to transport one or more traffic flows over a predetermined path”
9.	“badness factor” / “undesirable behavior” [Cloudflare Term]	8,243,593 “badness factor” (9-11, 13, 29-31, 33) “undesirable behavior” (1-7, 9, 13, 18, 25-27, 29, 33, 38)	Plain and ordinary meaning	Indefinite

10.	“based at least partially upon the set of behavioral statistics” [Cloudflare Term]	8,243,593 (4, 5, 9, 25, 29)	Plain and ordinary meaning	“based at least partially upon the set of behavioral statistics, but not any statistics associated with another flow”
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By: /s/ Daniel P. Hipkind

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CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this January 5, 2022 with a copy of this document via the Court's CM/ECF System.

/s/ Daniel P. Hipskind
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